

City Council

Jose Esteves, Mayor

Robert Livengood, Vice Mayor

Armando Gomez, Jr., Councilmember

Althea Polanski, Councilmember

Debbie Giordano, Councilmember



CITY OF MILPITAS - NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a Special Meeting of the City Council will be held at 5:30 p.m. on Thursday, June 14, 2007, in Council Chambers at City Hall, 455 E. Calaveras Blvd., Milpitas, CA. The agenda for the meeting is as follows:

AGENDA

SPECIAL CITY COUNCIL MEETING

**Thursday, June 14, 2007, 5:30 p.m.
Council Chambers, City Hall
455 E. Calaveras Boulevard**

I. ROLL CALL AND PLEDGE OF ALLEGIANCE

II. PUBLIC FORUM

Public comments may be made regarding any subject not on the agenda. Please limit your remarks to three minutes.

**III. PUBLIC HEARING:
ORDINANCE NO. 270.2 PROHIBITING MEDICAL MARIJUANA DISPENSARIES IN MILPITAS**

IV. ADJOURNMENT

Mary Lavelle, City Clerk

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE
at the City Attorney's office at the Milpitas City Hall, 455 E. Calaveras Blvd, Milpitas, CA 95035.

E-mail: rpioroda@ci.milpitas.ca.gov / Fax 408/586-3030 / Phone 408/586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov. Select Open Government Ordinance under News Features

Introduce Ordinance Prohibiting Medical Marijuana Dispensaries (Staff Contact: Peter Spoerl, 586-3040)

Background: At the City Council meeting of May 15, 2007, Council received a staff report from the City Attorney's office (on behalf of Planning staff) which detailed the various options available to the City upon expiration of the urgency ordinance, adopted August 2, 2005, that currently prohibits the establishment and operation of medical marijuana dispensaries within city limits. During the meeting, the City Council voted to waive the Attorney-Client privilege enjoyed by the memorandum prepared by the City Attorney's office. A copy of that memorandum is included in agenda packet for your reference. Following discussion of the staff presentation, the City Council gave direction, via unanimous vote, for staff to return with an ordinance prohibiting the establishment and operation of such facilities. This ordinance responds to that direction.

The draft ordinance would add a new Chapter 5 to Title XI of the Milpitas Municipal Code prohibiting the establishment and operation of medical marijuana dispensaries. The ordinance provides a broad definition of "medical marijuana dispensary" referencing applicable provisions of state law, but also includes a list of specified expectations for certain health care facilities that would not be subject to the prohibition provided they are licensed pursuant to the California Health and Safety Code and otherwise comply with the Milpitas Municipal Code. The exceptions would apply to clinics, health care facilities, residential health care facilities for persons with chronic life-threatening illnesses, residential health care facilities for the elderly, and hospices or home health agencies, and are generally intended to allow for legitimate uses and prescription of medical marijuana under state law in state-licensed facilities that do not operate as medical marijuana dispensaries. The ordinance would prohibit medical marijuana dispensaries in all zoning districts, provide that any violation of the Chapter constitutes a misdemeanor, that anyone violating the chapter shall be guilty of a separate misdemeanor offense for each and every day of violation under the ordinance, and that violations shall constitute a nuisance subject to abatement and injunctive relief from the courts.

Recommendations:

1. Receive staff presentation
2. Open the public hearing and receive public testimony
3. Close the public hearing
4. Waive first reading beyond the title
5. Introduce Ordinance No. 270.2 prohibiting the establishment and operation of medical marijuana dispensaries.